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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,398	02/24/2004	Jason M. Ortega	IL-11188	2875

7590 04/21/2005

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EXAMINER
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GORDON, STEPHEN T

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/786,398	Applicant(s) ORTEGA ET AL.	
	Examiner Stephen Gordon	Art Unit 3612	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 February 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 5, 6, 8, 13 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7, 9-12 and 15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 December 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2-24-04</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Claims 5-6, 8, and 13-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention. Election was made **without** traverse in the reply filed on 2-9-05.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: gap 116 (page 15). If applicant were to add –(not shown)—after “116” on page 15, the objection would be overcome. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to because they are informal – i.e. rough/hand drawn lines etc. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure

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is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The disclosure is objected to because of the following informalities:

Page 5 – line 6, "101" should be –103--. Page 13 – line 5, "801" should be –401--.

Appropriate correction is required.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-4, 7, 9-10, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Wiley '640.

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Wiley (figure 8A embodiment) teaches a baffle assembly 16,17+ spanning a gap width. The tractor defines a leading portion, and the trailer defines a trailing portion.

Claims 1 and 9, at least the flexible membrane between elements 16 and 17 (figure 8A) defines means for automatically adjusting as broadly claimed.

Claims 2 and 10, elements 16 and 17 define first and second panels as broadly claimed. The flexible membrane defines a panel to panel interface as broadly claimed.

Claim 3, to the extent that the panels are capable of hinged attachment, they are deemed adapted as broadly claimed.

Claim 4, the flexible membrane interface with the nose of the panel that the membrane is not directly attached to is deemed to define an overlapping section as broadly claimed. Additionally, the wiping of the membrane past the nose is deemed to define sliding engagement as broadly claimed – see section 4, lines 45-47.

Claim 7, elements 16,17+ define means for bounding as broadly claimed.

Claim 15, see figure 8 etc.

7. Claims 1-4, 7, and 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Schreiber.

Schreiber teaches a baffle assembly 28+ spanning the width of a vehicle gap between a leading portion 25+ and a trailing portion 27+ including means for automatically adjusting 36+ as broadly claimed.

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Claims 2 and 10, element 28a defines a first panel as broadly claimed which attaches to base surface 33+ (at element 25) and the lowest element in the baffle assembly as seen in figure 2 and attached to element 27 via front surface 33+ defines a second panel as broadly claimed. The connection at elements 36 define a panel to panel interface as recited.

Claims 3 and 11, the panels are hinged as broadly claimed – see figure 2.

Claims 4 and 12, at least centermost ones of panels 28 define an interface with overlapping sections in sliding engagement (at 36) as broadly claimed.

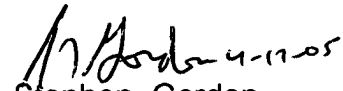
Claim 7, the baffle assembly is deemed to define means for bounding as broadly claimed.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note at least Selzer et al teaches an air deflection unit for a tractor/trailer gap.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gordon whose telephone number is (571) 272-6661. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Stephen Gordon  
Primary Examiner  
Art Unit 3612

stg